

District II Advisory Board Minutes

January 3, 2005

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The District II Advisory Board meeting was held at 7:00 p.m. at the Rockwell Branch Library, 5939 E. 9th Street North. Approximately 7 people were in attendance. Only those who signed in are listed as guests.

Members Present

Matt Hesse
Sarah Devries
Ray Frederick
David Mollhagen
Phil Ryan
Dane Saksa*
Kaci Tucker*

* Youth Representative

Members Absent

Brian Carduff
Daryl Crotts
Larry Frutiger
Tim Goodpasture
Joe Johnson
Marty Weeks

Staff Present

Jim Armour, Public Works
Kelli Glassman, CMO
Scott Knebel, MAPD
Donte Martin, Municipal Court

Guests

Stephen Brave, 4108 N Plum Tree Street
Brent Remsberg, PEC, 303 S. Topeka
Bill Cozine, 719 N Linden Court

ORDER OF BUSINESS

Call to Order

The meeting was called to order at 7:05 p.m.

Approval of Minutes and Agenda

Due to lack of quorum, the agenda for January 3, 2005 was not approved.

Due to lack of quorum, the meeting minutes for November 15, 2004 and December 6, 2004 were not approved and action on this item has been deferred until the next meeting.

Public Agenda

1. Scheduled items

No items were submitted.

2. Off-agenda items

Council Member Schlapp and board members expressed their gratitude to Donte Martin for his service as District II Neighborhood Assistant for the past five years and wished him luck in his new position with the City as Assistant to the Municipal Court Administrator.

STAFF PRESENTATIONS

3. Community Police Report

No report was presented.

4. Greenwich Road Improvements

Brent Remsberg, Professional Engineering Consultants (PEC), and Jim Armour, Public Works, were present to introduce this item to the board and answer any questions they may have. The 2004-2013 Capital Improvement Program adopted by the City Council includes a project to improve Greenwich, between 13th and K-96 Freeway. The project will reconstruct Greenwich to provide a four to six lane roadway and a median for left turn lanes. Traffic signals will be installed at the intersection of 21st and Greenwich. A new storm water sewer will also be constructed. The available right-of-way will be landscaped. The estimated project cost is \$4,300,000 with \$1,500,000 paid by the City and \$2,800,000 by Federal Grants administered by the Kansas Department of Transportation. The funding source for the City share is General Obligation Bonds. Final review plans were submitted in December 2004 and letting for this project is scheduled for April 2005.

David Mollhagen asked if this project extends north to Striker Field. **Mr. Remsberg** replied that these improvements extend from 26th Street to the south and that there was not enough traffic during peak hours to extend the construction to Striker Field.

The Board discussed the stages and funding of the project construction, particularly in relation to the sewer project being completed nearby. **Mr. Remsberg and Mr. Armour** provided answers to these questions and stated that this construction will be done in conjunction with the sewer project by building the sewer project ahead of the pavement project. Construction and closure of roads is expected to be around 12 months total. Segments of this project can be divided so that minimal traffic access inconvenience to citizens will occur. In regard to the funding for the project, there has been a delay while awaiting Kansas Department of Transportation approval. It was further noted that the design of this project will allow for future growth and expansion of traffic lanes without expensive and time intensive reconstruction projects.

Action Taken: This item was well-received, but due to lack of quorum, no action was taken by the board.

5. Appeal of Minor Street Privilege Denial

Jim Armour, Public Works, presented this item. **Mr. Steve Brave,** attorney for the complainant, was also present to address the board. On July 29, 2003, the City Engineer mailed John Miller a letter informing him that part of the fence recently installed on property at 805 N. Bracken was installed on public property and needed to be moved. On the same day, July 29, 2003, the City Engineer mailed a letter to **Mohammad Shinwari** with 21st Century Fence & Landscaping, who had performed the work for **Mr. Miller**, informing him that the fence needed to be moved off of public property. Upon receiving this letter, **Mr. Shinwari** called the City Engineer's office to request a waiver of City Code that would allow the fence to remain on public property. On August 11, 2003, the City Engineer mailed **Mr. Shinwari** a letter to let him know that his request had been denied because there were no circumstances that would warrant a waiver.

On March 1, 2004, **Steve Brave**, Attorney for **Mr. Shinwari**, called the City Engineer's office and asked for a minor street privilege permit that would allow the fence to remain on public property. On March 5, 2004, the City Engineer mailed Mr. Brave a letter to let him know his request for a minor street privilege permit had also been denied on the basis that there were no circumstances that would warrant issuance of a permit.

The fence was not moved by October 12, 2004, so the City Engineer mailed **Mr. Miller** a final notice to move the fence off of public property.

Mr. Armour presented an appeal letter from **Mr. Brave** and a memo from the City Engineer. Decisions by the City Engineer either granting or refusing to grant a minor street privilege permit may be appealed in writing to the City Council by the party adversely affected.

City Code Section 10.04.130 states; "It is unlawful for any person to obstruct any street, alley, public area, public right-of-way or sidewalk in the City by piling, placing or maintaining thereon any filth or litter or any goods, wares or merchandise or by placing or erecting any buildings or fence thereon or by placing any benches or seats for public use thereon." The fence was installed ten feet from the curb. The line between private property and public right-of-way is approximately 14 to 15 feet from the curb in this location. Water Department records indicate that the fence encroachment is approximately one foot from an eight inch water main which supplies the area. Therefore, Public Works believes they are in violation of this section of City Code.

Mr. Armour also stated that a permit and inspection for fences are not required by City staff unless they are eight feet or masonry.

Mr. Brave noted that the Homeowners Association approved the construction of this fence and that there have been no neighborhood complaints. According to **Mr. Brave**, it will cost \$2,500 to fix the fence and \$2,200 to move the fence. **Council Member Schlapp** replied that the Homeowners Association approval has no bearing on city regulations.

Ray Frederick and several other board expressed concerned that allowing the fence to remain in its current location would set a precedent for future similar situations. They feel that the fence company should have adhered to City Code regulations and should done a land survey to determine proper placement of the fence. It was asked if Kansas One Call was notified before the fence was built. **Mr. Brave** stated that he was not sure if Kansas One Call was called before the fence was built.

It was suggested that the City take adverse possession of the fence. This would allow the owner to keep the fence in its current location for an annual fee, yet the fence would remain City property.

It was also recommended that the homeowner sign a hold harmless agreement releasing the City of any liability should problems with utilities occur on this property.

It was also mentioned that this could present a problem if the homeowner attempted to sell the property and an agreement is not made resolving the issue of the fence.

It was advised that the setbacks for the property be checked to properly assess the situation.

Action Taken: Due to lack of quorum, no action on this item was taken.

PLANNING AGENDA

6. ZON 2004-00063

Scott Knebel, MAPD, presented this request for zone change from “NR” neighborhood retail to “LC” limited commercial and an amendment to Protective Overlay District #3 for 4.5 acres located south of Lincoln and east of Webb. The applicant has a contract to sell a portion of the subject property to a cosmetology school. The Unified Zoning Code defines a cosmetology school as a “Vocational School”, which is first permitted by right in the “LC” district. The subject property is restricted by the provisions of Protective Overlay District #3, which includes zoning restrictions pertaining to landscaping, signs, architectural control, lighting, traffic, screening, and permitted uses. The applicant proposes to amend Protective Overlay District #3 to continue the same zoning restrictions on the subject property, except that a “Vocational School” would be permitted in addition to the uses currently permitted on the subject property.

Mr. Knebel further explained that the subject property was approved (Z-3205) for “NR” Neighborhood Retail zoning subject to the provisions of Protective Overlay District #3 in 1996. The subject property was platted as Harrison Park Third Addition in 2000. Due to protest over the previous zoning change request, MAPD has brought this matter before the board to receive input. Citizens in attendance were given the opportunity to express their concerns, but none spoke.

Based upon information available prior to the public hearings, planning staff recommends that the request be approved.

Action Taken: Due to a lack of quorum, no formal action was taken by the board. However, none of the board members present expressed objections to this request.

BOARD AGENDA

7. Updates, Issues, and Reports

Board members had no issues or updates to report.

Council Member Schlapp updated the group on a couple of issues:

- **Council Member Schlapp** met with Bob Knight regarding the casino proposed near Park City. He is requesting a statement from the City saying that the City has no problem with this project going forward. The concern in issuing such a statement is that it does not allow the City to have future discussion on having a casino. **Mollhagen** asked if Park City has requested resources from the City. **Council Member Schlapp** replied that Park City is requesting Sedgwick County’s assistance with security which may require Wichita’s assistance also. The State has not approved designation of this site, which may be difficult to obtain if other surrounding cities do not demonstrate support for this venture.
- Genesis tax abatement issues will be discussed at the next Sedgwick County Commission meeting. **Council Member Schlapp** explained that when an IRB is granted, a County public hearing is held to allow input from all entities affected and that sales and property tax abatements can be considered.

The next DAB II meeting will be February 7, 2005 at the Rockwell Branch Library.

With no further business, the meeting adjourned at 8:35 p.m.